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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130717632-4285-02]

RIN 0648-BD52

International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions in the Eastern Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations under the Tuna Conventions Act of 1950, as amended, to implement decisions of the Inter-American Tropical Tuna Commission (IATTC). At its eighty-fifth meeting in June 2013, the IATTC adopted a number of resolutions, some of which require rulemaking to implement domestic regulations in the United States. This final rule implements one of these decisions: the Resolution on a Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean during 2014-2016 (Resolution C-13-01). This final rule extends the effective period of the regulations in the IATTC Convention Area that expired at the end of 2013 and provides purse seine owners with greater flexibility by allowing for an exemption during the closure periods due to force majeure. The expired regulations included a 500- metric ton bigeye tuna (*Thunnus obesus*) calendar year catch limit applicable to longline vessels greater than 24 meters in overall length and a 62-day closure period applicable each year to purse seine vessels of class size 4 to 6 (greater than 182 metric tons). The final rule also includes an exemption to the purse seine closures due to force majeure. Implementation of

Resolution C-13-01 is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: This final rule is effective [Insert date 30 days after date of publication in FEDERAL REGISTER].

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to (enter office name) and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) , or fax to (202) 395-7285.

Copies of supporting documents that were prepared for this final rule, including the regulatory impact review (RIR), as well as the proposed rule, are available via the Federal e-Rulemaking

Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2014-0014 or contact with the

Regional Administrator, William W. Stelle, Jr., NMFS West Coast Regional Office, 7600 Sand Point Way, NE, Bldg 1, Seattle, WA 98115-0070, or

[RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov).

FOR FURTHER INFORMATION CONTACT: Heidi Taylor, NMFS at 562-980-4039 or Celia Barroso, NOAA/NMFS Affiliate at 562-432-1850.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 5, 2014, NMFS published a proposed rule in the Federal Register (79 FR 6876) that would revise and add to regulations at 50 CFR part 300, subpart C. The purpose of the proposed rule was to implement IATTC Resolution C-13-01, Resolution on a Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean during 2014-2016, and was open to public comment through February 25, 2014. One comment was received and it was in

support of the proposed conservation and management measures. No changes have been made to the proposed rule.

This final rule is implemented under authority of the Tuna Conventions Act (16 U.S.C. 951-961), which authorizes the Secretary of Commerce with approval by the Secretary of State, to promulgate such regulations as may be necessary to carry out the obligations of the United States as a member of the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention), including the decisions of the IATTC. The authority to promulgate regulations has been delegated to NMFS.

The proposed rule included background information on the Convention and the IATTC, the international obligations of the United States under the Convention and the basis for the proposed regulations, which are not repeated here.

#### Tuna Conservation Measures for 2014 through 2016

This final rule extends the effective period of the purse seine closure period of 62 days, which expired at the end of 2013, to the years 2014 through 2016. Therefore, this final rule prohibits purse seine vessels subject to these requirements from fishing in the Convention Area for a period of 62 days in each fishing year for 2014, 2015, and 2016. This rule also continues to give applicable purse seine vessel owners the ability to choose between the two possible closure periods for each fishing year in 2014 through 2016. These closures would be in one of two periods in each year as follows:

2014: 29 July to 28 September, or from 18 November to 18 January 2015.

2015: 29 July to 28 September, or from 18 November to 18 January 2016.

2016: 29 July to 28 September, or from 18 November to 18 January 2017.

A vessel's owner, manager, or association representative is required to provide the West Coast Regional Administrator, via fax to (562) 980-4047 or email to [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov), by July 1 of each fishing year (2014, 2015, and 2016) with the following information: (1) name and official number of fishing vessel; (2) the closure period the vessel will adhere to in that year; and, (3) the vessel owner or managing owner's name and signature. If a vessel owner fails to notify the Regional Administrator of his or her choice by the July 1 deadline, the vessel is subject to the later closure period (November 18 to January 18 of the following calendar year) by default.

A purse seine vessel owner may request an exemption to the 62-day closure described in the paragraph above due to force majeure, in which a vessel is rendered unable to return to sea for a period of at least 62 days. Force majeure is defined as a situation in which a vessel is disabled due to mechanical and/or structural failure, fire, or explosion. To place a request for exemption due to force majeure, the vessel operator is required to contact the NMFS West Coast Region Sustainable Fisheries Division Assistant Regional Administrator, via e-mail or fax, and provide evidence necessary to demonstrate that the vessel did not proceed to sea for at least 62 days and that the facts on which the request for exemption is based were due to force majeure. If an exemption is initially denied, a request for reconsideration may be made within 10 days to the West Coast Regional Administrator. If the request is accepted, the purse seine vessel owner may observe a reduced closure period of 30 consecutive days.

This final rule also extends the effective period of the high seas time/area closure for tuna purse seine vessels in class sizes 4 to 6, which expired at the end of 2013, to 2014 through 2016. The area is bounded at the east and west by 96° and 110° W. longitude and bounded at the north and south by 4° N. and 3° S. latitude. In addition, this rule extends, from 2014 through 2016, the

annual bigeye tuna catch limit of 500 metric tons in the Convention Area for U.S. longline vessels over 24 meters in overall length.

#### Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Tuna Conventions Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a Final Regulatory Flexibility Analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0387. Public reporting burden for the request for exemption due to force majeure is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) , or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information

subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources,  
Reporting and recordkeeping requirements, Treaties.

Dated: April 3, 2014.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart C is amended as follows:

## PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951-961 et seq.

2. In § 300.21, revise the definition for “Regional Administrator”, and add the definitions for “Force majeure” , “Overall length”, and “Sustainable Fisheries Division (SFD) ” in alphabetical order to read as follows:

### § 300.21 Definitions.

\* \* \* \* \*

Force majeure means, for the purpose of § 300.25, a situation in which a vessel is disabled by mechanical and/or structural failure, fire or explosion.

\* \* \* \* \*

Overall length means registered length, or the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments for a single-hull vessel; for a multi-hull vessel, it is the horizontal distance between the outboard side of the foremost part of the stem of the foremost hull and the outboard side of the aftermost part of the stern of the aftermost hull, excluding fittings or attachments (See 46 CFR 69.203).

Regional Administrator means the Regional Administrator for the West Coast Region, National Marine Fisheries Service, or a designee.

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Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for the Sustainable Fisheries Division, West Coast Region, National Marine Fisheries Service, or a designee.

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3. In § 300.25, the heading of paragraph (b) and paragraphs (b)(2) and (f) are revised to read as follows:

§ 300.25 Eastern Pacific fisheries management.

\* \* \* \* \*

(b) Tuna catch limits in the longline fishery in the Convention Area. (1) \*\*\*

(2) For each of the calendar years 2014, 2015, and 2016, there is a limit of 500 metric tons of bigeye tuna that may be captured and landed by longline gear in the Convention Area by fishing vessels of the United States that are over 24 meters in overall length.

\* \* \* \* \*

(f) Purse seine closures in the Convention Area. (1) A fishing vessel of the United States of class size 4-6 (more than 182 metric tons carrying capacity) may not be used to fish with purse seine gear in the Convention Area for 62 days in each of the years 2014, 2015, and 2016 during one of the following two periods:

(i) From 0000 hours UTC on July 29 to 2400 hours UTC on September 28, or

(ii) From 0000 hours UTC on November 18 to 2400 hours UTC on January 18 of the following year.

(2) A vessel owner, manager, or association representative of a vessel that is subject to the requirements of paragraph (f)(1) of this section must in 2014, 2015, and 2016 provide written notification to the Regional Administrator declaring to which one of the two closure periods



identified in paragraph (f)(1) of this section his or her vessel will adhere in that year. This written notification must be submitted by fax at (562) 980-4047 or e-mail at [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov) and must be received no later than July 1 in each of the years 2014, 2015, and 2016. The written notification must include the vessel name and registration number, the closure dates that will be adhered to by that vessel, and the vessel owner or managing owner's name, signature, business address, and business telephone number.

(3) If written notification is not submitted per paragraph (f)(2) of this section for a vessel subject to the requirements under paragraph (f)(1) of this section, that vessel must adhere to the closure period under paragraph (f)(1)(ii) of this section.

(4) Request for exemption due to force majeure. A request for exemption due to force majeure must be made to the Sustainable Fisheries Division by fax at (562) 980-4047 or e-mailed to [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov). The request must include the name and official number of the vessel, vessel owner or manager's name and signature, and evidence to support the request, which may include but is not limited to photographs, repair bills, certificates of departure from port, and in the case of a marine casualty, a completed copy of the U.S. Coast Guard Form CG-2692A (See 46 CFR 4.05-10).

(i) If accepted by the Sustainable Fisheries Division, the request for exemption due to force majeure will be forwarded to the IATTC Director. If declined by the Sustainable Fisheries Division, within 10 days of the date that rejection, the applicant may give additional information or documentation to the Regional Administrator with a request that the initial decision be reconsidered by fax at (562) 980-4047 or e-mail to [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov); the Regional Administrator shall respond within 14 business days.

(ii) If the request for an exemption due to force majeure is accepted by the IATTC, the vessel must observe a closure period of 30 consecutive days in the same year during which the force majeure event occurred, in one of the two closure periods described in paragraph (f)(1) of this section.

(5) A vessel of class size 4 (182 to 272 metric tons carrying capacity) may make one fishing trip of up to 30 days duration during the specified closure period in paragraph (f)(1) of this section, provided that the vessel carries an observer of the On-Board Observer Program of the Agreement on the International Dolphin Conservation Program during the entire fishing trip.

(6) A fishing vessel of the United States of class size 4-6 (more than 182 metric tons carrying capacity) may not be used from 0000 hours on September 29 to 2400 hours on October 29 in the years 2014, 2015, and 2016 to fish with purse seine gear within the area bounded at the east and west by 96° and 110° W. longitude and bounded at the north and south by 4° N. and 3° S. latitude.

(7) At all times while a vessel is in a time/area closed period established under paragraphs (f)(1) or (f)(6) of this section, unless fishing under exceptions established under paragraphs (f)(4) or (f)(5) of this section, the fishing gear of the vessel must be stowed in a manner as not to be readily available for fishing. In particular, the boom must be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any must be tied down; and launches must be secured.

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